

Sentiment and the Law: Inventing the Category of the Wretched Slave in the *Real Audiencia* of Santo Domingo, 1783–1812

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Abstract:

This essay explores the idea of the “pious humaneness” of the Spanish monarchy as it manifested in the legal and judicial activities of the Real Audiencia of Santo Domingo. In the 1780s, two new imperial policies relating to slavery held the potential to improve slaves’ lives. I focus on slaves’ power to denounce and correct neglect or abusive punishment in light of the new imperial policies. I reexamine social historians’ assumption that laws related to “humane” treatment were not enforced. They often were, and were several times even strengthened over masters’ objections. Slave treatment was a social order problem.

Keywords: Santa Domingo | Caribbean | Slavery | Colonization | Spain | Eighteenth Century

Article:

The pious royal spirit of His Majesty, moved by the desire to mitigate and improve the destiny of the black slaves . . . and compelled by the feelings of his great humanity and innate kindness, has condescended to abolish the violent practice . . . of branding slaves on their face or back upon their entry in the Americas . . . as it is inhumane.

Deseando el piadoso Real ánimo de S.M. movido de los sentimientos de su grande humanidad e innata beneficencia, mitigar y mejorar la suerte de los negros esclavos . . . se ha dignado abolir enteramente y para siempre la práctica . . . de marcarlos a su entrada por los puertos en el rostro o espalda . . . como opuesto a la humanidad.

—King Charles III, *Royal Order*, 1784¹

In 1798, Spanish painter Luis Paret y Alcázar created an engraving called *La alegoría de la colonización* [*Allegory of Colonization*]. Its three female figures represent the Catholic Church, the Spanish monarchy, and America as they give and receive “civilization.” That these figures are female is no accident: to feminize colonization is to associate imperial power with sentimental feelings. Near the figures, a beehive symbolizing organized society connects sentiment to legislative power. The figures’ composition is significant: they are arranged in a downward-pointing triangle with America at the bottom and the monarchy subordinated to the Catholic Church. The positioning implies the strong centrality of the king’s authority, mediating between God and the Catholic Church on one side and the Amerindians on the other. The engraving illustrates how the Spanish Bourbon kings strategically deployed a rhetoric of humaneness. Although the reputation of early Spanish colonization was blood-soaked, the figure of a “pious” and “humane” monarch, dedicated to safeguarding the weak from the abuses of decadent nobility, became a popular cultural theme as the eighteenth century neared its close. The idea appeared not merely in visual art, but also in Spanish sentimental drama of the 1790s, including those of playwright Luciano Comella (1741–1812), whose fictional king administers justice and commiserates with those in need.²

Spanish counter-narratives of American history are exemplified by Juan Nuix’s *Reflexiones imparciales sobre la humanidad de los españoles en Indias* [*Impartial Reflections on the Spaniards’ Humaneness in the Indies*] (1780).³ This work was intended to prove, among other things, that royal laws and institutions had prevented violent treatment of American natives and African slaves by rogue Spaniards. Spanish writers of the counter-narratives, academics in the *Real Academia de la Historia* [*Royal Academy of History*], and keepers of the *Archivo General de Indias* [*General Archive of the Indies*] hoped that their works would present to the world a more civilized image of the Spanish monarchy. The putative “pious humaneness” of the Spanish monarchy also emerged in new imperial laws regarding slavery—particularly in the 1784 codification project and the 1789 ameliorative royal edict, which I will examine at length. Although this language of humaneness was employed to buttress imperial power with moral superiority, it also served to uphold slavery and its attendant terrors.

This essay explores this tension inherent within “humane” slavery through the legal and judicial activities of the *Real Audiencia de Santo Domingo* [*RASD*], the superior court of appeals with jurisdiction over colonial Cuba, Florida, Puerto Rico, Louisiana, and Santo Domingo (modern-day Dominican Republic). This court helped sustain slavery, despite its sentimental rhetoric of humaneness. In the 1780s, two new imperial policies held the potential to improve slaves’ lives. Though these policies supported the legality of human “property,” they also attempted to expand the *Reales Audiencias’* power to control slave owners’ property rights, thus providing, in theory, a check on these owners’ abuses of slaves. Scholars have previously analyzed how slaves contributed to the expansion of manumission laws and the consolidation of legal freedom-related

practices.⁴ Here, I focus on slaves' power to denounce and correct neglect or abusive punishment in light of the new imperial policies.

The eighteenth century saw much debate about the sustainability of empire and legal language in the 1780s captured the “resilient subtext of the religious and civil humanitarian legacy,” as historian Elena Díaz has called it—that is, an emphasis on humaneness that was central to that debate.⁵ Indeed, my analysis of slaves' presence in the courts as recorded and reported by the *RASD* reveals a growing anxiety among colonial administrators about the violence associated with slavery. I reexamine social historians' assumption that laws related to “humane” treatment were not enforced. In fact, they often were, and were several times even strengthened over masters' objections. Practical concerns, such as fear of slave revolts, underlay these anxieties. Ultimately, I argue that judges' reactions to violent deaths of slaves reflected not only alarms about violence but also about the challenges of enforcing imperial laws. The treatment of slaves was a problem of social order.

Scholars have long debated the so-called “humane” legacy of religious and civil laws regulating slavery in Spanish America. Historians Herman Bennett and Sherwin Bryant argue that beginning early in the era of conquest, the church played a crucial role in shaping sacramental identities and legal practices related to peoples of African descent.⁶ Centuries-old civil laws and practices allowed slaves to carry on social activities and gave them legal standing to testify against their masters in colonial courts, which arguably provided them some protection against abuse. The legal systems of other empires, in contrast, provided no such precedent. This contrast inspired Frank Tannenbaum to propose the centrality of the law to understanding slavery in *Slave and Citizen*.⁷ In comparing the United States' laws to the legacy that shaped slavery in Latin America, however, Tannenbaum contrasted images of benevolent Spanish and Portuguese masters to those of cruel Anglo-Saxon slave-owners, a conclusion that generated great scholarly controversy.⁸ Indeed, the Spanish claim to humaneness may resemble the antebellum South quest for honor and paternalistic ideals, explored by Ariela Gross in the nineteenth century.⁹ Distinguishing “benevolent” from “cruel” slave systems is too simplistic.¹⁰

Historians are beginning to recognize that slaves in other empires had more agency than previously believed. Although slaves most frequently appear in the historical judicial record as objects of criminal lawsuits, they also litigated to keep their families together, obtain permission to marry, bring charges when they were victims of crimes, and sue for freedom.¹¹ In making such claims, argues historian Alejandro de la Fuente, slaves bridged the gap between abstract legal rights and social action. As they exercised their legal prerogatives, slaves changed legal practices in ways that were formalized over time.¹² In the first half of the eighteenth century, according to historian Bianca Premo's analysis, a judge of the Superior Court of Lima sided with slaves in shaping judiciary and doctrinal practices. In this way, as Premo proposes, “slavery law was forged in practice and was often understood to be a matter of local customary law.”¹³

Although this article engages in part in a top-down analysis of the law, I do not wish to join the Tannenbaum debate. Analyzing slaves and slavery through the lens of the *RASD* has limits; it risks mimicking the grandiose language of humaneness and repeating the myth that Spanish slavery was inherently humane. Make no mistake: slavery in any form is never humane. Rather, my close reading of the archive examines the fiction of the humane monarch and the myth of a humane Spanish slave system by highlighting the legal and judicial activities that propped up these ideals. As Bianca Premo has noted, “humane monarchy” underscores the rhetoric of patriarchal power that endowed the Spanish Bourbon dynasty’s administrative, legal, judicial, and cultural reforms with moral superiority. Through the language of piety and humaneness, the Bourbons developed a technique of legal writing that justified the growth of power in the *Reales Audiencias*, a problem Premo analyzes in connection to childhood education.¹⁴ The expansion of sovereignty that I explore here centers on what constituted legitimate use of corporeal punishment by masters. Humaneness was a legal language and a court performance, which colored the writing of the history of slavery by a monarchy concerned with its image.

My focus on the language of sentiment in the 1780s slavery reforms is intended to engage with recent challenges to the assumption that the Spanish did not participate in the antislavery discussions of the late eighteenth and early nineteenth centuries.¹⁵ I argue that they certainly did. The legal archive I investigate here struggled with abuses against African slaves. In it, the slave was often depicted as a “poor, wretched soul,” an image intended to elicit sympathy. Judicial authorities voiced deep regrets for the violence that slaves experienced and dictated exemplary punishments for the killing of a slave even as they failed to account for how often such killings occurred. The archive demonstrates its authors’ familiarity with the scandals of Spanish colonization; these scandals may have caused ambivalence among royal reformers.

The *RASD*’s limited and ambivalent attempts to raise awareness of the abuses of slavery did not bring about abolition. On the contrary, during the nineteenth century, Spain became “an active player in refashioning Atlantic slavery,” as Christopher Schmidt-Nowara notes.¹⁶ Not until 1886 was slavery abolished in its American colonies and the Philippines. A further exploration of how legal and political reform exploited the idea of benevolence to sustain slavery may provide some insight to a question Schmidt-Nowara posed in 2004: How did laws that limited masters’ raw power also allow for the creation of the largest plantation complex in the Spanish colonial empire?¹⁷ The question of Spain’s unique engagement with antislavery tenets entails a careful analysis of the nation’s putatively “humane” legacy.

In the following section, I examine the economic context of the 1784 codification project and the 1789 ameliorative royal edict. As the late Bourbons liberalized the slave trade, legal reforms of slavery were also taking place. The unprecedented growth in importation of slaves to the Spanish colonies coincided with legal reforms and international debates about the morality of slavery. I then turn to the “humane” subtext of these policies. I examine the ambivalence of the 1784 policy, called the *Código negro carolino* [*Carolinian Black Code*], which suggested that a slave’s body should be protected for the sake of the king’s sentiments and the slave’s humanity. I

also examine the 1789 *Real Cédula de Su Majestad sobre la educación, trato y ocupaciones de los esclavos* [*Royal Decree of His Majesty on the Education, Treatment, and Occupation of Slaves*], which reflected some of the same ideas.¹⁸ Finally, I study the staging of sentiment—essential to the expansion of royal sovereignty and the justification of profit—in the judicial records of the *RASD* between 1780 and 1812. This staging oscillated between the execution of sentences—such as imprisonment and forcible repossession of property—that made an example of wayward slave owners and the silencing of violence against slaves.

ECONOMIC AND LEGAL PRECEDENTS OF THE 1784 AND 1789 REFORMS

On 23 December 1783, the president of *RASD* received an order from Spain to codify a set of rules for the “economic, political and moral government of blacks” on the island.¹⁹ This directive would become the 1784 codification project entitled *Código negro carolino*. It was born, in part, of national envy: the royal decree argued that the French *Code noir* underlay neighboring Saint-Domingue’s economic success.²⁰ Local reformers wanted to transform Santo Domingo’s deficient cattle economy into a sugar plantation system like its French neighbor’s. The president of the *RASD* appointed senior judge and Dominican priest Agustín Emparán y Orbe to carry out the task.²¹ Emparán y Orbe consulted with local planters, army officers, and town representatives, collected imperial decrees and local legislation in the *RASD*’s archives, and included in his report a summary of the *Code noir* [*Black Code*].

This codification project drew upon legal precedents of the 1760s, a time when conversations about revitalizing agricultural exploitation had begun.²² Scholars agree that the British occupation of Havana from 1762 to 1763 was a turning point in the history of Spanish slavery, an observation I extend to Spanish slavery laws. Before the British opened Havana to free trade, Spain had tightly regulated slave imports. During the eleven months of British domination, approximately twelve thousand slaves were brought to the island, and Cuban planters had a glimpse of the fortunes to be made through the trade and the exploitation of slave labor. The temporary loss of Havana underscored Cuba’s strategic importance for the protection of Spanish metropolitan interests. After recovering Cuba, the Spanish monarchy granted political and economic liberties to the creole elites to secure their loyalties. Planters liberalized the trade, including slave trade, and gained control over local affairs, which set the stage for the later growth of Cuban slavery.²³

Similarly, planters and representatives of colonial authority in 1760s Santo Domingo wanted a plantation economy like that of French Saint-Domingue. Santo Domingo’s governor, Manuel Azlor, used the destruction caused by two hurricanes in 1765 and 1766 as an opportunity to dispatch a report by city council representatives to King Charles III, reminding him that, despite the fertility of the soil, the island was one of his poorest lands. A royal subvention of slave importation, he wrote, would help remedy the deficient exploitation of local resources.²⁴ In response, the *Royal Decree* of 29 October 1769 instructed Azlor to create a committee that would work to improve production of indigo, cacao, cotton, and tobacco and the commercial

exchange of leather. Comprising imperial administrators and local farmers, the committee met in 1772 and produced a document that contained eight petitions. Its first and most important petition was twofold: that the king should spend in two consecutive years 100,000 *pesos* to purchase 10,500 African slaves and that the royal treasury would exempt from import tariffs an additional 40,000 black slaves over five years.²⁵ In the eyes of the committee and the monarchy, the expansion of agriculture depended on increasing slave imports. Santo Domingo's town council complemented the economic plan by updating the colony's bylaws regulating slavery. Despite the widespread perception that slavery would revive the island's stagnant economy and despite local norms that regulated masters' obligations toward the care of slaves, the committee's petition to introduce 10,500 slaves remained stalled throughout the 1770s. Instead, the Minister of the Indies conceded tax-relief measures to the farmers of Santo Domingo.²⁶

In the late 1770s and early 1780s, the Crown passed additional economic reforms. In 1776 Charles III authorized the *Reglamento de libre comercio* [*The Regulations of Free Commerce*]. In 1777, the monarchy became more involved with the slave trade.²⁷ The royal order of December 1783 resuscitated Santo Domingo's economic ambitions and its corresponding legal project. By 1784, Santo Domingo's army officers, town representatives, and plantation owners provided senior judge Emparán y Orbe their opinion on the codification mandate.²⁸ Their unanimous consensus was that no further legislation was needed, as planters already had to endure multiple encroachments on their rights from the judiciary and the Church. Lieutenant Colonel Ignacio Caro blamed the colony's unproductive slave force on the Church's interference as well as civil society's careless manumissions.²⁹ City magistrate Antonio Dávila Coca advocated for the creation of a co-judge who would serve as final arbiter of the justice of judicial resolutions and their usefulness in maintaining the subordination of slaves. José Núñez de Cáceres, a chaplain in Santo Domingo, indicated that in his *hacienda* [plantation] the distribution of labor, daily schedule, food and dress were already performed according to equity and justice.³⁰ He felt that his own observance of Christian instructions made the royal mandate redundant, an attitude shared by many slave owners who objected to regulation.

Santo Domingo planters as well as the military clearly opposed royal ameliorative intrusion. Colonel Joaquín García, who was responsible for the security of the island and who would go on to become governor of Santo Domingo in 1788, wrote the most extensive contribution to the dialogue on the reform of slavery "for the happiness of the State" (*CNC*, 96). He argued that current practices should continue and the Crown should not interfere with familial affairs. Given that the interests of private planters and the monarchy were already aligned, the king ought to allow masters to decide on slaves' tasks, schedule, and daily care. However, while García advocated for masters' freedom to manage their slave force, he left a discussion of the technicalities of manumission to legal authorities. He acknowledged his ignorance of the laws regulating the "desgraciada esclavitud" [unfortunate slavery] and the complexities associated with administering justice (*CNC*, 93–96).³¹ Excluding the ancient legislation of *Las Siete Partidas* [*The Seven Divisions*], in which a thirteenth-century king had outlined slave-care

guidelines, García remarked that no previous royal decrees or edicts had been concerned with slaves' entitlement to a specific sort of daily care. The implication of his argument was that there was little reason for them to do so now.

HUMANE SUBTEXT OF THE LAWS

Despite masters' push to deregulate slave ownership, Emparán y Orbe proceeded with his task of codifying slavery laws in response to the 1783 imperial decree. This section examines his 1784 *Código negro carolino*, in which Emparán y Orbe composed a list of limits to slave owners' property rights, including the use of excessive punishment. The *Código's* historical relevance rests not on its legal nature, as many of the changes it proposed never became law, but on its attempt to create a rhetorical community of readers with shared perceptions of slave ownership. As a manifestation of the so-called *proyectismo* [preoccupation with projects of reform] of the Hispanic Enlightenment, the text instructs both legal professionals and laymen on the mutual obligations binding master and slave and on the responsibilities of free blacks after manumission. In short, it reflected an underlying impulse to ameliorate slavery. A few years later, a similar impulse led to the *Real Cédula de Su Majestad sobre la educación, trato y ocupaciones de los esclavos* of 31 May 1789, a document that made many of the same points.

The *Código negro carolino* is a complex text. It is descriptive and normative, but it also has a persuasive and conciliatory tone, one concerned with best practices for the political and economic stability of a society that included a great many slaves. To ensure masters' compliance, Emparán y Orbe produced a list of norms accompanied by moral reflections that justified the revival of previous local and imperial laws about slavery. This list was not driven by abolitionist sentiment: his introduction argued that previous laxity had produced free blacks whose "shameful idleness, independence, and pride" were at the core of the island's poverty and its "deplorable decadence" (*CNC*, 161). Because free blacks could not be forced back to the fields as slaves could, exploiting Santo Domingo's richness would require fresh slave imports. Still, Emparán y Orbe questioned the legitimacy of the slave trade. He highlighted the exploitative nature of slave labor, writing that workers consisted of a "numerosa nación extraída violentamente de su amada Patria y del centro de su familia, reducida a este efecto a la esclavitud, privándola de los derechos naturales de su libertad, único bien que poseía" [numerous nation violently extracted from their loving motherland, from the core of their family, reduced to slavery, deprived of their natural right to freedom, the only good they possessed] (*CNC*, 167). Natural and divine laws defined the African slave as a fellow human. Emparán y Orbe emphasized that "la naturaleza [los] hizo nuestros semejantes, la religión y humanidad nuestros hermanos y la piedad de nuestros augustos soberanos, sus vasallos" [nature created Africans similar to whites, religion and humaneness made slaves brothers and sisters, and sovereign piety pronounced them his vassals] (*CNC*, 162). For these reasons, slaves, like all of the king's subjects, were entitled to his paternal protection. Therefore, royal edicts, Emparán y Orbe believed, should serve to rectify the natural selfishness of economic practices.

The judge proposed a reform that emphasized the role of the king as a father figure, one who had for centuries commiserated with the wretched and helpless poor.³² He appealed to mythical ideas about kingship and placed the king in the traditional monarch's role as administrator of justice to safeguard the weak: "Interesa a la causa pública la tuición de estos miserables . . . su protector general que se les nombrará como a personas miserables y desvalidas" [It is in the interest of the public these wretched peoples' defense . . . as helpless and miserable people they will be represented in court by an assigned public defender] (*CNC*, 206).³³ The *Código negro carolino* repeated that as the "most miserable vassals of the king," slaves were entitled to his beneficence to improve "their sad condition and destiny" (*CNC*, 236). Legally categorizing slaves as the wretched poor safeguarded the king's paternal image. Slaves' dual status—as both economic objects and wretched subjects of the king—also kept slave ownership under the control of the judiciary:

Mas siendo [los esclavos] en sus colonias [del rey] el precioso instrumento de la felicidad pública, debe la legislación nacional extender sus miras y atención a la conservación de su especie a mejorar en lo posible su triste condición, y a dispensarle toda su protección para ponerla a cubierto de la nimia severidad, o crueldad de sus dueños.

In the [king's] colonies [slaves] are the precious tools of public happiness, therefore imperial legislation must regulate their preservation and improvement of their sad condition, laws must bestow them protection against their masters' severity and cruelty.

(*CNC*, 198)³⁴

Emparán y Orbe reminded masters of the Spanish legal tradition that for centuries had limited their *dominium* and established that slavery was against nature and freedom; slaves had a moral personality that entitled them to personal security.

To avoid increasing the numbers of disobedient free blacks and to replace existing ones with submissive Africans, the introduction to the *Código's* first chapter, "On the Moral Government of Serfs," stated that teaching religion was the primary object of good government.³⁵ If masters abided by imperial and local norms and taught their slaves religion, Emparán y Orbe suggested, Africans would be properly socialized and would then apply themselves to agricultural labor. Emparán y Orbe evoked the popular Spanish assumption that rival slave regimes of the British, French, and Dutch, unlike that of Spain, were to blame for social unrest in the Caribbean. This belief redirected attention away from cruelties committed by Spanish slave owners. This marriage between heavenly peace and earthly economic growth was a fantasy. As court cases show, terror was what dominated slaves' lives. Santo Domingo's geography enabled Emparán y Orbe to ignore the violence around him: he argued that its mountainous terrain made violence useless, since ill-treated slaves would simply flee to the hills. Hidden in remote areas, a large population of escapees did in fact manage to live, supported by the fertile land.³⁶ This did not, however, discourage violence on the part of slave owners.

Emparán y Orbe reminded masters that the sacred rights of property over slaves were the same ones a good father exercised over his beloved children. Slaves must be managed with sweetness and moderation, with exacting but soft discipline. Solid education would enhance their natural inclination to be honest, laborious, and reasonable. The author argued that slaves' very natures suited them to slavery, as they were inherently good, sober, and patient: "no deben considerase los negros como unos entes puramente físicos incapaces de virtud y de razón, o como puros autómatas útiles solo para los penosos trabajos de la agricultura" [blacks should not be considered as mere physical entities incapable of virtue and reason, or as simple machines, only useful for the painful work of agriculture]. But without "humane" direction, African slaves would relapse to their natural stupidity. This supposed moral instability justified their enslavement and acculturation.³⁷

Legal reasoning in the *Código negro carolino* was intended to create a community of readers in agreement with Spanish philosophical and legal traditions that had advocated for the humanity of the African slave since Fray Bartolomé de Las Casas in the sixteenth century.³⁸ The law generally required masters to go before the *RASD* rather than resort to corporeal punishment. Delegitimizing masters' use of undue force on the basis of the slave's humanity and of Spanish legal traditions formed the core of the code's humaneness. Shortly after the king permitted the introduction of new slaves to Santo Domingo, a draft of the *Código negro carolino* was dispatched to the *Contaduría General de Indias* [Audit Office of the Indies]. There it remained forgotten for several years.³⁹

NO COMMUNITY OF READERS: MASTERS REACT TO THE *REAL CÉDULA* OF 1789

A few months after the royal edict of 28 February 1789, which allowed the Spanish to import slaves, was sent to the *Secretaría* [Ministry] of Peru, the king promulgated the second important slave-related policy of the 1780s under discussion in this essay, the *Real Cédula de Su Majestad sobre la educación, trato y ocupaciones de los esclavos* of 31 May 1789. The bulk of the decree's fourteen articles were concerned with core duties associated with the daily care of the slave. This decree levied a fifty-peso fine on slave owners who did not feed or clothe slaves, assign moderate labor, assist with honest entertainment, or provide appropriate dwellings and infirmaries. It also fined owners who abandoned minor, elderly, or disabled slaves. In addition to listing obligations, the decree limited the corporal punishment a master could legally inflict on his slaves to twenty-five lashes with a soft device (though it failed to give an example of what such a device might be). Furthermore, shackles, chains, or stocks could not be applied to the slave's head. For discipline that resulted in bleeding or mutilation, masters would be prosecuted and punished according to regular criminal laws; they could be imprisoned and their possessions seized. Victims of excessive discipline would be confiscated and sold to another master.⁴⁰



Fig. 1. Luis Paret y Alcázar, *La alegoría de la colonización* [Allegory of Colonization], engraving, 1798. Courtesy of the John Carter Brown Library at Brown University.

Sugar plantation owners in Cuba, Puerto Rico, Venezuela, Florida and Louisiana resented not having been consulted for the writing of the *Código negro carolino*, and they met the *Real*

Cédula of 1789 with discontent. Landowners outside Santo Domingo but still under the *RASD*'s jurisdiction viewed the 1789 decree as an ignorant intrusion of the Crown into the complexities of sugar production and an unnecessary alteration of the patriarchal ordering of colonial society. Masters wanted slaves to perceive their owners as the ultimate patriarch, with no superior authority over them. In February 1790, a group of prominent planters sent a letter to the Prime Minister, Count of Floridablanca, in Madrid requesting that the 1789 decree not be enforced. In addition to hindering the sugar business, they argued, codifying and publicizing masters' responsibilities in this way would transform conveniently vague moral obligations into slaves' rights to an education, proper shelter, adequate food, and suitable dress. If slaves knew they had legal rights, they might develop a sense of entitlement.

Although masters and the Crown shared economic interests, masters took these gestures as propaganda, leading to tensions. Ever invested in protecting their image as humane Christians, some masters claimed they felt paternal care for their property. Humaneness as well as self-interest, they argued, already inclined them to fulfill their moral duty to slaves, so they did not need the Crown's intervention. In their view, the *Real Cédula* of 1789 would only become a tool for undermining masters at slaves' whims. This response suggests that the rhetoric of "royal humaneness" was perceived as mere propaganda. Masters felt that the language of sentiment constructed a false image of slavery as an institution of poverty, suffering, and exploitation.⁴¹ To negate that image, planters painted their slaves as happier and better provided for than any free European day laborer. They argued that their property rights were as sacred as the supposed kindness with which they treated their workers. Their document made no direct claim to the right to use violence, but the reader was left to speculate as to the degree of violence needed to enforce slave humility and subordination.⁴² Despite this reaction from masters, the 1789 royal decree proved durable. In different forms, it resurfaced at least twice in the nineteenth century. In 1826, the *Reglamento para la educación, trato y ocupaciones de los esclavos* [*Bylaws on the education, treatment and occupation of slaves*] of San Juan de Puerto Rico promulgated the instructions of the royal decree of 1789. Likewise, the 1842 *Reglamento de esclavos* [*Bylaws of slaves*] of Cuba repeated the masters' obligations and property limits that had been included in the royal decree.⁴³

STAGING OF SENTIMENT IN THE *REAL AUDIENCIA DE SANTO DOMINGO*

Imperial legal reforms may begin as documents, but their interpretation and implementation by the courts gives them life and relevance. What does a close reading of the judicial archives of the *RASD* reveal about the tribunal's interpretation of the fictitious "humane" monarch? Did these reforms help slaves? Did the invigoration of the "humane" rhetoric in the 1780s have an effect on the tribunal's involvement with slaves' grievances? Historians suggest that the royal decree of 1789 never came into effect.⁴⁴ A series of *Diarios* [*Diaries*] containing approximately 2,000 rulings of the *RASD* between 1785 and 1797 show that the decree was invoked to justify the incarceration of offenders once in 1794 and twice again in the 1800s. These reports show that no masters were prosecuted for neglect. A few were tried for maltreatment, and a few overseers

for causing the death of a slave. Thus, although some abuses by the lower personnel in the judiciary were taken seriously, these cases are so rare as to be numerically irrelevant. But language that refers to slaves as “poor” and “miserable” and judges’ harsh warnings to abusive owners together pose a challenge to the common assumption that paternalistic laws on slaves’ treatment had no effect.

The first *Diario* dates to 1786 and includes 392 resolutions. That year in Santa Cruz, Nueva Granada (modern-day Venezuela), one master was incarcerated and his property confiscated for the supposed death of his “negrillo esclavo” [little black slave]. In fact, the slave had been blinded, but not killed. The master was consequently set free under bail and a new investigation opened to evaluate his responsibility in the incident. If he were found not to be at fault, then he would remain free as well as recover his property, all interest generated by his capital, and the slave. The same year in Santo Domingo, a slave named Juan de Heredia demanded that his children be sold to another master because they were cruelly treated by their current one. The court granted Heredia’s demand and condemned the owner to pay legal expenses and the cost of appraisal of the slaves. The judge “agria y severamente” [bitterly and severely] admonished the owners “traten como deven a sus esclavos, castigandolos moderadamente para correccion, y no con la crueldad, aspereza, hambre, y desnudez comprovada por publica difamación, y por testigos fidedignos . . . resultando de ello las fugas, y fatales cosas que han sobrevenido a los esclavos” [to treat their slaves as they should, punishing them with moderation, for their correction, and not with cruelty, harshness, hunger, and nudity, as attested by reliable witnesses . . . causing them to run away and other fatal occurrences].⁴⁵

In 1787, the judicial diary *Relación de los autos* [Account of resolutions] indicates that the tribunal resolved over 450 conflicts. Two cases of abusive punishment resulting in the slaves’ death occurred in Havana and they were, at first, handled differently. An overseer named Jose Séllez was jailed for the death of the slave María Ascensión. However, because another overseer named Fernando Sánchez, who was guilty of causing the death of the slave Juan de Dios, was never charged, Séllez appealed in April 1787 to the *RASD*, asking for his sentence to be suspended. The court reduced his time in prison but admonished the governor of Havana to interrogate Sánchez and his master. The resolution indicates that “their failure to help a dying slave” should be prosecuted and the perpetrator jailed for his cruelty.⁴⁶ The implication was that the death of the slave resulted from his overseer’s “cruel castigations.” The court also ordered the forced sale of the slave Lucas Narvarro in Bayaguana, Santo Domingo, and included a warning to the ex-owner to leave his former slave in peace or be jailed for two years.⁴⁷

In 1788 the focus of the archive shifted toward the state of the royal treasury. The 1789 and 1790 reports include no legal claims for abusive treatment. In 1791, the *Testimonio de diario*’s [Daily Report] 1,042 resolutions include only one criminal claim related to cruel castigation in Vega, Santo Domingo.⁴⁸ In 1794, the *Lista de causas* [List of Court Cases] includes two deaths as a result of abusive treatment in Cuba. In one of these cases, an overseer, Francisco Hernández, was charged for cruelly punishing a slave with fire and lashes, causing the slave’s death. His case was

brought before the *RASD*. The governor of Havana had sentenced Hernández to six months of community service in the city's charity house, but the public prosecutor of Santo Domingo thought that punishment too lenient. Instead, he requested eight years of prison with shackles and forced labor “a ración y sin sueldo”—with bread and water and without compensation. The prosecutor invoked the *Real Cédula* of 1789 in his decision and manifested his growing concern with such crimes, which he said had become increasingly common in Havana. To set an example, he requested to apply the same verdict to slave owner Agustín Fernández. In Fernández's case, a local priest had cooperated in the secret burial of a deceased slave, killed at the master's hands. The prosecutor demanded that the bishop of Havana file a disciplinary hearing against the priest and take the necessary steps to prevent similar future violations by the clergy.⁴⁹ Beginning in 1787, slaves fared even worse at the hands of the law as the number of prosecutions of crimes committed by slaves increased with every report. By 1797, the date of the last diary, most resolutions related to criminal charges of various natures, but none charged a master with maltreatment.

In short, the evidence of the diaries suggests that slaves in the city of Santo Domingo, where the *RASD* was located, were able to invoke the law for their benefit—yet there were far more claims for *coartación* [self-purchase] than there were appeals for maltreatment.⁵⁰ Three slaves in Santo Domingo were able to press charges for cruelty against their owners; their petition to be sold to a different master was granted. All demands but one occurred before 1789. It is unclear whether the successful use of the court system by a few slaves can explain why so few abusive masters were imprisoned in Santo Domingo. By contrast, in Cuba the justice system appears not to have been of much use to slaves, who simply died at the hands of cruel overseers. In addition, castigations for the death of a slave were lenient in Cuba. Criminal prosecutions for excessive punishment reached the superior court in Santo Domingo only because of a discrepancy in sentences dictated by the lower courts. An aggrieved overseer rather than a slave would bring the perceived injustice to the superior court's attention. An analysis of court cases during the reform years suggests that space for slaves' agency was limited. The rarity of court demands for strong public punishment of slave owners prevents optimistic claims regarding the agency of slaves in petitioning legal help to safeguard their wellbeing. The archive indicates that the fashionable rhetoric of “humaneness,” the inspiration for the 1789 reform, seemed to have shaped the reality of only a handful of slaves.

Furthermore, as two additional cases indicate, the resolutions' didactic tone implies that one of the *RASD*'s central concerns was to educate its staff regarding procedural laws. On 12 August 1786, the court ruled in favor of one Don Josef Araza. Araza had made a claim against another Spanish colonist, Caspar Diaz, for the wounds Diaz had inflicted upon one of Araza's slaves. The court disapproved of the lower court's poor resolution of the case, which—though unknown to us—was evidently not stringent enough. In blood crimes, the judge instructed, the stipulated punishment was “prision, y embargo de bienes del reo” [prison and his property forfeited] a rule that applied more emphatically when the victim was a “miserable esclavo” [wretched slave].

That same year, the superior court also admonished the commander of Arzua for mistreating a slave prisoner. A slave named Santiago was found guilty of killing a man. As Santiago was on his way to jail, the drivers severely beat Santiago and stole his handkerchief and two pesos. When they arrived at the jail with their prisoner, the drivers did not turn in a travel incident report, nor did the commander inquire about the prisoner's injuries. On 7 June 1786, the regent ordered the court in Arzua to investigate within fifteen days the assault perpetrated against Santiago, discover the identity of the drivers, obtain their testimony, and incarcerate them in the royal prison. Both the court personnel and the commander of Arzua were advised to control their staff and to stop violent abuses against prisoners.⁵¹

Such instructions directed at local judicial personnel make it clear that the tribunal was trying to educate them. The rulings lectured these men on their moral duties as protectors of those who appealed to them, especially in cases involving slaves. But the pedagogical language of "humaneness," even as it highlighted the symbolic role of the judiciary as protector of the weak, also concealed both the violence that had brought the case to the court and the extreme difficulty slaves faced in accessing such protection. The 1791 revolution in French Saint-Domingue (Haiti) forever changed the political and economic balance in the Caribbean. As it battled the slave uprising, France's revolutionary government confirmed the abolition of slavery, while Spain declared war on France. When the defeated Spanish had to abandon Santo Domingo to France after signing the 1795 Treaty of Basel, the *RASD* was moved to Santiago, Cuba; the move was finalized in 1799. As already seen, records dating to before this transfer to Cuba do not include extensive accounts of abuses by masters, but at the dawn of the new century, court officials sent to Madrid the transcripts of at least two major claims. The records of these claims imply that interests other than the protection of the injured slave informed the initial investigation as well as the resolution of the case. In both occasions, the integrity of the judicial system was at stake.

One of these cases began with a female slave named María de la Merced Castañeda being treated in the hospital of San Francisco de Paula in Havana for thirty-three severe skin burns. The case came to the attention of the Trinidad district commissary in 1806. The victim pressed charges against a couple named Juan Gómez Frayle and Cayetana Fenández de Velasco for abusive punishment. Castañeda had been not only severely burned over her face and body, including her genitals, but also shackled and publicly exhibited. The case narrative states: "como si fueran justicias la habían encorazado, y con grillos y esposas la habian paseado por toda la calle" [as if they [masters] were justices they had put the slave in the iron-clad shackles, and handcuffs parading her throughout the street].⁵² The publicity of the torture horrified and scandalized neighbors. Legal proceedings began with a physical exam and declarations by witnesses, including other household slaves. Castañeda, it emerged, was tortured for leaving the house and for the disappearance of a garment. The violation of the royal decree of May 1789 was part of the legal argument that led to condemning the owners to two years in prison and a two hundred peso fine. The resolution also set Castañeda free.

If the Castañeda case can be taken as typical, the blurring of lines between private and public violence was of great concern in early nineteenth-century Cuba. Local authorities addressed the public display of aggression by private individuals acting “as if they were justices.” Torture to extract information for an alleged robbery fell outside the limits of masters’ legitimate use of force. At stake was the integrity of the legal and the judiciary systems, as well as the restoration of social order after a public scandal. In addition, the burned body of Castañeda underscored the legal immunity that nobility enjoyed. Cayetana Fenández de Velasco had tried to defend herself on the grounds that she had noble origins and a proud family name, but the authorities were not impressed. Neither was the Regency in Spain, which in 1812 confirmed the couple’s punishment. Agreement on both sides of the Atlantic suggested that Spaniards would no longer find that aristocratic names and origins exonerated them from arrogant and abusive behavior. The final confirmation of Castañeda’s freedom arrived after six years of litigation.

In 1808, the collective grievances of slave miners in Barbacoa, Cuba reveal how the private exploitation of a mine conflicted with the public role of the judge.⁵³ Some judges owned mines and used slaves to work them. As miners, these judges were cruel and sometimes lethal slave-drivers. As court judges, they rejected their slaves’ demands and silenced them. Juan García Velasco, attorney general in the city of Barbacoa, called attention to the tyranny of masters who denied their slaves the protection they were entitled by law. García Velasco took it upon himself to raise awareness of these abuses and protested against the weakness of court personnel who did not implement the royal decree of May 1789. He denounced the corruption of a system in which private interests trumped those of the public. In his capacity as city attorney he requested that the king allow slaves to find a new master if, upon the old master’s death, they preferred not to pass as property to his heirs. Once again, slaves’ grievances were taken into consideration as occasions to reassert the “humaneness” of the colonial authorities as they upheld the law, resolved conflicts of interests, and restored the authority of the judiciary.

CONCLUSION

As the late Bourbons liberalized the slave trade, legal reforms of slavery were also taking place. The *Real Orden* [Royal Order] of 4 November 1784 abolished as inhumane the practice of branding slaves on the face or back upon their entry to the Americas. That pointed to a shift, at least a figurative one, toward limiting violence in order to preserve both the slave’s body and the king’s good image. Limiting unnecessary violence that would damage the slave cargo at the port of entrance symbolized the king’s humaneness. In 1785 and 1789, two new imperial policies held the potential to improve slaves’ lives through expanding the *Reales Audiencias*’ power to prosecute abusive punishment. My analysis of slaves’ presence in the courts as recorded and reported by the *RASD* reveals a growing anxiety among colonial administrators about the violence associated with slavery. As Alejandro de la Fuente has shown, a Spanish legal tradition recycled by later royal regulations limited the ability of colonial slaveholders to dehumanize slaves.⁵⁴

In focusing on the language of humaneness and conflicts around the exercise of violence that framed the legal reform of the late eighteenth century, I do not imply that slavery in Latin American colonies was milder, more humane, or more liberal in contrast to the inarguably cruel Anglo-American system. Instead, I suggest that imperial and local reformers' rhetoric—deployed to persuade masters to a different understanding of the limits of property and the performance of the judiciary—helps us understand the anxieties that surrounded the violent economy of enslaving at a time of its projected increase. Concerned with the sustainability of empire, imperial reformers exploited the fiction of the humane monarch and the myth of a humane Spanish slave system. Local reformers propped up these ideals and appealed to the king's supposed concern for his most vulnerable vassals. Legal and judicial language often depicted slaves as a “poor, wretched soul,” an image intended to elicit sympathy. Local reformers believed that strengthening the legal framework of the Crown's power over the slave labor force in America would help Spain regain moral, economic, and political power.

The *RASD*'s attempts to monopolize the use of violence under its jurisdiction shows that slaves were an arena in which masters and administrators contested legitimate force. Tensions around the “legitimate” use of violence suggest that being terrorized was a typical slave experience and whether slaves experienced less violence as a result of the new legislation is uncertain. Limits on masters' power to discipline slaves were brought to the attention of the judiciary only sporadically. When such cases appeared before them, however, judges ordered sentences that condemned masters for abuse of power. The Castañeda case suggests that public physical punishment was socially unacceptable in Havana. Public knowledge of private violence had the potential to benefit slaves, but how owners argued their right to property also played a role. Through a revitalized rhetoric of “humaneness,” the 1780s policies attempted to expand slaves' protections, but they did not materialize in effective claims in court beyond the institutional culture of Santo Domingo.

An analysis of the laws concerning slave treatment, and of the judgments of the *RASD* at the turn of the century, helps us understand the frame within which slaves maneuvered to effect change and to improve their living conditions. The *RASD*'s ambivalent attempts to raise awareness of the abuses of slavery did not bring about abolition. Despite fragmentation and contradictions, the archives unquestionably point to the law's self-serving nature. Judges' interventions in cases of violent death reflect not only concerns about violence but also about royal authority and difficulties enforcing imperial laws. The performance of humaneness in legal language and court verdicts tells us that local reformers were devoted to strengthening the moral underpinnings of royal power. Legal and political reform exploited the idea of benevolence to sustain slavery, a policy that may provide some insight to the problem of how laws that limited masters' power also allowed for the creation of the largest plantation complex in the Spanish colonial empire.

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NOTES

1. Richard Konetzke, *Colección de documentos para la historia de la formación social de Hispanoamérica*, 3 vols. (Madrid: Consejo Superior de Investigaciones Científicas, 1953), 3:543.
2. Luciano Comella dramatized the “humane monarch” in several plays. For further analysis of Comella’s work, see María Angulo Egea, *Luciano Francisco Comella (1751–1812): Otra cara del Teatro de la Ilustración* (Alicante: Univ. de Alicante, 2006).
3. First published in Italian as *Riflessioni imparziali sopra l’umanità degli spagnuoli nell’Indie, contro I pretesi filosofi e politici, per servire di lume alle storie dei signori Raynal e Robertson* (Venice, 1780), the book was translated into Spanish twice, by Pedro Varela y Ulloa in 1782 and by the author’s brother, Josef de Nuix y de Perpiñá, in 1783. For biographical details on Nuix, see Isacio Pérez Fernández, *Juan Nuix y Perpinyà, S.J. frente a Bartolomé de las Casas, O.P. Dos españoles en la disputa de América de los ‘ilustrado’ del S. XVIII* (Madrid: Institutos Pontificios, 2001), 1–7. For a critical approach to Nuix’s evaluation of America’s early colonization, see, Jorge Cañizares-Ezquerro, *How to Write the History of the New World: Histories, Epistemologies, and Identities in the Eighteenth-Century Atlantic World* (Stanford: Stanford Univ. Press, 2001), 35, 171, 182–86.
4. For works which focus on slaves’ initiatives in bridging the gap between the law and its application, see Carlos Aguirre, “Working the System: Black Slaves in the Courts of Lima, Perú, 1821–1854,” in *Crossing Boundaries: Comparative History of Black People in Diaspora*, ed. Darlene Clark Hine and Jacqueline McLeod (Bloomington: Indiana Univ. Press, 1999), 202–22; Herman Bennett, *Africans in Colonial Mexico* (Bloomington: Indiana Univ. Press, 2003); Sherwin Bryant, “Enslaved Rebels, Fugitives, and Litigants: The Resistance Continuum in Colonial Quito,” *Colonial Latin American Review* 13, no. 1 (2004): 7–46; Alejandro de la Fuente, *Su único derecho: Los esclavos y la ley* (Madrid: Fundación Mapfre Tavera, 2004); Kris Lane, “Captivity and Redemption: Aspects of Slave Life in Early Colonial Quito and Popayán,” *The Americas* 57, no. 2 (2000): 225–46; Brian P. Owensby, “How Juan and Leonor Won Their Freedom: Litigation and Liberty in Seventeenth-Century Mexico,” *Hispanic American Historical Review* 85, no. 1 (2005): 39–79; Bianca Premo, “An Equity Against the Law: Slave Rights and Creole Jurisprudence in Spanish America,” *Slavery and Abolition* 32, no. 4 (2011): 495–517; Renée Soulodre-La France, “Socially Not So Dead! Slave Identities in Bourbon Nueva Granada,” *Colonial Latin American Review* 10, no. 1 (2001): 87–103; Christine Hünefeldt, *Paying the Price of Freedom* (Berkeley: Univ. of California Press, 1994); María E. Díaz, *The Virgin, the King, and the Royal Slaves of El Cobre: Negotiating Freedom in Colonial Cuba, 1670–1780* (Stanford: Stanford Univ. Press, 2000).

5. María Elena Díaz, “Beyond Tannenbaum,” *Law and History Review* 22, no. 2 (2004): 373. On the European debate regarding the sustainability of empire, Anthony Pagden, *Lords of the World: Ideologies of Empire in Spain, Britain and France, 1500–1800* (New Haven: Yale Univ. Press, 1995), 156–75.
6. Bennett, *Africans*, 34; Bryant, “Enslaved Rebels,” 8–9. A summary of the Catholic Pope’s pronouncements against African slavery can be found in José Luis Sáez, *La Iglesia y el negro esclavo en Santo Domingo. Una historia de tres siglos* (Santo Domingo: Patronato de la Ciudad Colonial, 1994), 24–28.
7. Frank Tannenbaum, *Slave and Citizen: The Negro in the Americas* (Boston: Beacon Press, 1992); Fernando Ortiz, *Los negros esclavos* (Habana: Ciencias Sociales, 1975).
8. Contributions by Alejandro de la Fuente, María Elena Díaz and Christopher Schmidt-Nowara, “Forum: What can Frank Tannenbaum still teach us about the Law of Slavery?,” *Law and History Review* 22, no. 2 (2004), 339–87.
9. Ariela Gross, *Double Character. Slavery and Mastery in the Antebellum Southern Courtroom* (Princeton: Princeton Univ. Press, 2000).
10. Lisa Lindsay and John Wood Sweet, *Biography and the Black Atlantic* (Philadelphia: Univ. of Pennsylvania Press, 2013); Rebecca Scott, *Freedom Papers and Atlantic Odyssey in the Age of Emancipation* (Cambridge: Harvard Univ. Press, 2012).
11. Premo, “An Equity,” 499.
12. Alejandro de la Fuente, “Slave and the Creation of Legal Rights in Cuba: Coartación and Papel,” *Hispanic American Historical Review* 87, no. 4 (2007): 664.
13. The judge Pedro José Bravo de Lagunas may have used the *humane* frame to free up space to develop their own judicial philosophy and methods to prove cases and reach verdicts. See Premo, “An Equity,” 495–517.
14. Bianca Premo, “‘Misunderstood Love’: Children and Wet Nurses, Creoles and Kings in Lima’s Enlightenment,” *Colonial Latin American Review* 14, no. 2 (2005): 231–61.
15. Another scholar who questions this assumption is Emily Berquist, “Early Anti-Slavery Sentiment in the Spanish Atlantic World, 1765–1817,” *Slavery and Abolition* 31, no. 2 (2010): 181–205.
16. Christopher Schmidt-Nowara, *Empire and Antislavery: Spain, Cuba, and Puerto Rico, 1833–1874* (Pittsburgh: Univ. of Pittsburgh Press, 1999), 3.
17. Christopher Schmidt-Nowara, “Still Continents (and an Island) with Two Histories?,” *Law and History Review* 22, no. 2 (2004): 378–82.

18. *Real cedula de su magestand concediendo libertad para el comercio de negros con las islas de Cuba, Santo Domingo, Puerto Rico y provincia de Caracas, á españoles y extranjeros, baxo las reglas que expresan* (Madrid, 1789). <http://www.ensayistas.or/antologia/XIXE/castelar/esclavitud/cedula.htm>

19. The royal edict ordered the writing of “unas ordenanzas para el gobierno económico, político y moral de los negros de esa Isla al modo de las que tienen los franceses que denominan *Código negro*” [bylaws for the economic, political and moral government of blacks on the Island following the French *Code noir*'s model]. The National Archives in Cuba holds the dossier *Diligencias para la formación del Código Negro de la Isla Española* [*Communications to compose the Black Code for the Island Española*], dated 1784 and marked “Secret Document 243,” which has been edited by Javier Malagón Barceló. Javier Malagón Barceló, *Código negro carolino 1784* (Santo Domingo: Editora Taller, 1974), 80, henceforth cited parenthetically in the text as “CNC;” all English translations are mine.

20. Gabriel Paquette has explored the emulation of rival imperial practices as an outgrowth of international rivalry: Gabriel Paquette, “Enlightened Narratives and Imperial Rivalry in Bourbon Spain: The Case of Almodóvar’s *Historia Política de los Establecimientos Ultramarinos de las Naciones Europeas* (1784–1790),” *The Eighteenth Century* 48, no. 1 (2007): 61–80.

21. CNC, 92. Agustín Emperán y Orbe was born into one of the Basque families that benefited from the Bourbon reforms. He arrived to Santo Domingo in 1779, moved to Mexico in 1787, and was eventually appointed *Regent* in the *Real Audiencia* of Philippines. On the types of personal relationships that facilitated access, career development, and exercise of power in the administration of the Hispanic Atlantic, see José María Imízcoz and Álvaro Chaparro Sainz, *Élites, poder, y red social: las élites del País Vasco y Navarra en la Edad Moderna* (Bilbao: Univ. País Vasco, 1996). For a discussion of Emperán y Orbe’s merits, see José Caro Álvarez, *Don Agustín Ignacio Emperán y Orbe y el Código negro carolino* (Santo Domingo: Museo del Hombre, 1974).

22. Archivo General de Indias Santo Domingo [henceforth cited as AGI SD] 1034, entitled “Mejora y adelantamiento de la isla Española” [Improvement and advancement of the Island Española] (dated 1794), compiles plans for Santo Domingo’s economic recovery starting in the 1760s. The expansion of agriculture was thought to depend on an increase of slave imports. The town council complemented the economic plan with a legal project, the “Capítulos de ordenanzas” of 1768. These bylaws were aimed to ensure the subordination of all blacks to labor demands. They also outlined masters’ obligations toward their human property with the goal of preventing slaves from running away. Article 14 established that masters were obligated to provide slaves with three pounds of meat per week, in addition to six pounds of casave or the equivalent. Article 17 indicated that masters must care for the sick and elderly slaves. Masters’ legal obligations to feed and dress slaves were included in Ordenanza 23 of the 1528 bylaws of Santo Domingo, which had never been revoked (nor had the 1535, 1542, or 1545 bylaws). The

bylaws of 1768 were never sanctioned by the RASD. See Vetilio Alfau Durán, “Ordenanzas para el gobierno de los negros de la isla española,” *Anales de la Universidad de Santo Domingo* 16, nos. 57–60 (1951): 283–84.

23. Moreno Franigals, *El ingenio* (Barcelona: Crítica, 2001); Franklin Knight, *Slave Society in Cuba During the Nineteenth Century* (Madison: Univ. of Wisconsin Press, 1970); Dale Tomich, “World Slavery and Caribbean Capitalism: The Cuban Sugar Industry, 1760–1868,” *Theory and Society* 20 (1991): 297–319; Christopher Schmidt-Nowara, “The End of Slavery and the End of Empire: Slave Emancipation in Cuba and Puerto Rico” *Slavery and Abolition*, 21no. 2 (2000): 188–207.

24. AGI SD 1034.

25. Historians have noted that one of the most common themes discussed among colonial administrators during the second half of the eighteenth century was the critical importance of slavery for the development of the economy and the difficulty of obtaining slaves. See Soulodre-La France, “Socially Not So Dead!,” 90.

26. AGI SD 1034.

27. The acquisition of the islands of Fernando Poo and Annobón in the Gulf of Guinea by the Treaty of San Ildefonso in 1777 was part of a large scheme intended to facilitate Spain’s direct involvement with the trade. Manuel Lucena Salmoral, *Los códigos negros de la América española* (Alcalá: Ediciones UNESCO, 1996), 17–18, 62; Berquist, “Early anti-slavery sentiment,” 186–88.

28. These representatives included Antonio Mañón, City Magistrate and Proctor; Lieutenant-Coronel Ignacio Caro, Coronel Joaquín García, future Governor and Captain General of the island; José Núñez, Dean of the Cathedral of Santo Domingo; Antonio Dávila y Coca, City Magistrate; and plantation owners Francisco de Tapia y Castro, Miguel Bernardo Ferrer, Francisco Cabral, José de Ponte, and Andrés de Heredia. For these representatives’ responses to the code, see *CNC*, 87–113.

29. Caro complained that religious authorities had historically interfered with planters’ economic interests. Slaves were exempted from ninety-three holydays per year in contrast to everyone else’s obligation to comply with only six religious observances. In addition, plantation owners paid more than four *reales* for each confession a priest heard from a slave. Although Caro exaggerated the number of religious celebrations, the First Provincial Council of Santo Domingo (1622–23) created 38 religious observances in addition to regular Sundays. In theory, masters could not compel slaves to work on holidays. They would be fined ten pesos for their first violation and excommunicated for their second. The Fourth Diocesan Synod (1683) distinguished between holy days of three crosses, mandatory for all; holy days of two crosses that exempted

blacks, mulattoes and slaves from work; and holy days of one cross, when slaves could be applied to work. Sáez, *La Iglesia y el negro esclavo*, 58.

30. José Núñez de Cáceres became Deán of Santo Domingo in 1765, retired in 1787, and died in 1789. He owned about 80 slaves between 1758 and 1788. Members of the clergy owned slaves for the exploitation of their lands and domestic service. For a chart with the number of slaves held by religious institutions and further discussion, see Sáez, *La Iglesia y el negro esclavo*, 32–39, 70–71.

31. Legal technicalities included progression toward freedom, master-slave obligations in the manumission process, employer and freedman bond, and the number of generations which had to pass before an African descendant could become a citizen.

32. The image of the slave as “weak” and the “deserving poor,” on whose side kings allied against the tyranny of masters, is found in one of the most influential criticism of empire in the late eighteenth century, the abbé Thomas Guillaume Raynal’s *Histoire philosophique et politique des établissements et du commerce des Européens dans les deux Indes* [*Philosophical and Political History of the Settlements and Trade of the Europeans in the East and the West Indies*]. Book eleven (attributed to Jean de Pechmeja) described how ancient slavery had died out in Europe by virtue of monarchs’ policies to protect slaves in wars the new European monarchies fought against feudal nobilities. Pagden, *Lords of the World*, 169–79.

33. Jane Landes points out that the legal category of the *wretched classes* included the slave. See “Traditions of African American Freedom and Community in Spanish Colonial Florida,” in *The African American Heritage of Florida*, ed. David R. Colburn and Jane Landers (Gainesville, Univ. Press of Florida, 1995), 18.

34. See also Alejandro de la Fuente, “Slave Law and Claims-Making in Cuba: The Tannenbaum Debate Revisited,” *Law and History Review* 22, no. 2 (2004): 366.

35. Conversion to Christianity was, once again, offered as the sole compensation for their “miserable suerte y condición” [wretched destiny and condition]. Indoctrination was the means to uproot “detestables errores de la idolatría” [detestable mistakes of idolatry]. Civilized values, such as “lealtad al soberano, del amor a la nación española, del reconocimiento y gratitud a sus amos, de la subordinación a los blancos, respeto y veneración a sus padres, parientes y ancianos, sensibilidad y correspondencia con sus amigos y demás virtudes sociales” [loyalty to the sovereign, love to the Spanish nation, recognition and gratitude to their masters, subordinations to whites, respect and veneration to their parents, relatives and elderly, sensibility and reciprocity to their friends and other social virtues] save Africans from their spiritual poverty. *CNC*, 163–67.

36. *Ibid.*, 197.

37. *Ibid.*, 225, 197, 166. The African “docile nature” served to explain their condition as a slave. See Soulodre-La France, “Socially Not So Dead!,” 90.

38. Bartolomé de las Casas, *Historia de las Indias*, ed. Agustín Millares Carlo (México: Fondo de Cultura Económica, 1965), 118–48.

39. *CNC*, 163.

40. In addition to Christian education (article 1), masters were required to provide food, dress (article 2), appropriate work (article 3), rest and time for entertainment (article 4), shelter and medical attention (article 5), care for the elderly and the chronically ill (article 6), and to allow slaves to marry (article 7). Masters would supply local justices with a list of their slaves and annually account for their wellbeing (article 12). The first three failures to comply with these responsibilities were fined (article 10). Slaves in turn had the obligation to obey, respect and venerate their masters and overseers. Article 8 established that insubordination was punished with “prisión, grillete, cadena, maza, ó zepo, con que no sea poniéndolo en este de cabeza, ó con azotes, que no puedan pasar de veinte y cinco” [prison, shackle, chain, mace, as long as it is not placed on the slave’s head; or lashes that will not exceed twenty-five]. *CNC*, 272–74.

41. Archivo General de Indias Estado 7, 5. “Carta de los hacendados a Floridablanca solicitando la suspensión del Real Decreto de 1789” [Planters’ letter petitioning Prime Minister, Floridablanca, the suspension of the Royal Decree of 1789].

42. Attempts to reform slavery in Saint-Domingue by adapting the principles of the French *Code noir* took place between 1784 and 1785. These metropolitan decrees attempted to restrict the use of violence owners could inflict on their slaves and to prohibit the use of torture. Despite royal provisions, in 1788 the colony’s high court dismissed the case against Nicolas Lejeune, a slave-owner who admitted torturing two of his female slaves to death. The Lejeune affair united French owners in resistance to imperial rules that submitted masters to a higher law, thus altering slaves’ perceptions of masters’ absolute authority. The dramatic episodes of the Lejeune case were integral to the slave insurrection of 1791 that would later become the Haitian Revolution. Jeremy Popkin, *You Are All Free. The Haitian Revolution and the Abolition of Slavery* (Cambridge: Cambridge Univ. Press, 2010), 30–31; Laurent Dubois and John Garrigus, *Slave Revolution in the Caribbean, 1789–1804* (Boston: Bedford/St. Martin’s Press, 2006), 16–17. For an extensive explanation of how the exceptional case of the Lejeune affair highlighted the crucial role of torture in the maintenance of slavery in French Saint-Domingue see Malick Ghachem, “Prosecuting Torture: The Strategic Ethics of Slavery in Pre-Revolutionary Saint-Domingue (Haiti),” *Law and History Review* 29, no. 4 (2011): 985–1029. Colonial authorities in Spanish Santo Domingo reacted differently to royal mandates; the *RASD* removed slaves from cruel masters and punished the death of slaves caused by brutal treatment.

43. These instructions are reproduced in Lucena Salmoral, *Los códigos negros*, 285–300. A glimpse into slaves’ judicial testimonies, denunciations, and appeals between 1818 and 1869 can be found in Gloria García Rodríguez, *Voices of the Enslaved in Nineteenth-Century Cuba*, trans. Nancey Westrate (Chapel Hill: The Univ. of North Carolina Press, 2011), 90–100.

44. De la Fuente notes that “Whether justices actually ordered the sale of abused slaves is not known.” De la Fuente, “Slaves and the Creation,” 670.

45. Public servants were ordered to monitor the couple’s behavior. In addition, two witnesses were fined: Don Feliz Herrera with twenty-five pesos and Petrona with fifteen days in jail for changing their testimony, for perjury, blasphemy, and praising guilty offenders. AGI SD 989. “Diario de las providencias dadas . . . en el año de 1786,” s.n.

46. AGI SD 991. “Diario de providencias expedidas . . . en el año de 1787,” f. 162.

47. On 22 October 1787, the *RASD* ordered the Bayaguana court to compel Juan Andrés Navarro to sell his slave Lucas Navarro to another master for a fair price. The resolution also ordered the former master not to interfere in Luca’s life under the threat of two years in prison. AGI SD 991. “Diario . . . 1787,” f. 141.

48. This criminal demand was filed against Don Baltasar Nuñez in the city of Vega but the report does not describe the cruel treatment neither mentions if the recipients were men, women or children. AGI SD 997. “Testimonio de diario dela Real Audiencia . . . del año de 1791,” s.n.

49. AGI SD 999. “Lista de causas . . . en todo el año pasado de 1794,” s.n.

50. The *Diario* of 1786 includes 392 resolutions given by the tribunal; around thirty-five cases related to slaves. Among them, seven related to disagreements regarding slaves’ self-purchase, six in Santo Domingo and one in Nueva Granada. In 1787, the *Relación* indicates that *RASD* resolved over 450 demands. Among the resolutions dictated, twenty-eight related to slaves’ manumission, twenty-three of which originated in Santo Domingo, three in Cuba and two in Puerto Rico. As seen, only one slave requested a sale on the basis of cruelty.

51. AGI SD 989. “Diario . . . 1786,” s.n. The treatment of prisoners and prison regimes was formally regulated in the *Recopilación de los Reinos de Indias* [*Compilation of the Laws of the Indies*], 4 vols. (Madrid, 1841). Title VI, Book VII said that prisoners were to be treated fairly and could not be injured or insulted.

52. AGI SD 329 “Expediente sobre castigos atroces impuestos por Don Juan Gómez Frayle a una esclava” [Criminal Proceedings on the Atrocious Punishments Inflicted by Don Juan Gómez Frayle on a Slave].

53. *Ibid.*

54. Alejandro de la Fuente, "Slaves, Free Blacks, and Race in the Legal Regimes of Cuba, Louisiana and Virginia: A Comparison," *North Carolina Law Review* 91 (2013): 108.